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Attorneys for Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Nirosh H. De Silva,

Plaintiff,

v.

Pima Community College, a political
subdivision/governmental entity; John
Does I-X; Jane Does I-X; ABC
Corporations I-X; XYZ Partnerships I-X,

Defendants.

No.

Notice of Removal

Defendant Pima Community College¹ (hereinafter “the District”) having received a copy of Plaintiff’s summons and complaint, hereby notices the removal of the above-captioned case originally filed in the Superior Court for the State of Arizona, in the County of Pima, Case No.: C20230695 from the Superior Court of Arizona in the County of Pima, to this Court and in support thereof asserts:

I. JURISDICTION

This Court has jurisdiction pursuant to 28 U.S.C. §1331 (federal question). This action may be removed pursuant to 28 U.S.C. §1441(a) because Plaintiff has asserted a claim of retaliation under Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d and 34 C.F.R. § 100.7 (hereafter referred to as “Title VI”), against Defendant Pima Community

¹ Pima Community College’s proper name is the Pima County Community College District.

College. Plaintiff's claims, as set forth in the Complaint, arise from allegations of discriminatory behavior related to administration of Federal Supplemental Educational Opportunity Grant funds, and conduct alleged to be discrimination and/or retaliation in violation of 34 C.F.R. §100.7(e).

This Court also has supplemental jurisdiction of those state law claims asserted against the District (for negligence and negligence per se), since they are closely related to the federal claims asserted. 28 U.S.C. §1367. The state law claims arise out of the same factual allegations as Plaintiff's federal claims under Title VI, and allege that the District breached duties created by federal law and so supplemental jurisdiction is appropriate.

II. COMPLIANCE WITH LRCIV 3.6(B)

Pursuant to LRCiv. 3.6(b), the following documents are attached as exhibits to this Notice:

<u>Exhibit No.</u>	<u>Documents Included:</u>
1	Civil Cover Sheet (JS-44)
2	Supplemental Civil Cover Sheet
3	State Court Docket as of March 21, 2023
4	Operative Complaint
5	Service Documents: <ul style="list-style-type: none"> • Summons • Certificate of Service
	Answers <ul style="list-style-type: none"> • (none)
	State Court orders terminating or dismissing parties <ul style="list-style-type: none"> • (none)
	Notices of Appearance <ul style="list-style-type: none"> • (none)
	Pending Motions, Responses, Replies <ul style="list-style-type: none"> • (none)
6	Remainder of the State Court Record

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| | <ul style="list-style-type: none"> • Filing Fee Receipt • Notice of Filing Notice of Removal |
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III. ANSWERS OR ORDERS TERMINATING OR DISMISSING PARTIES

As of this date, no Defendant has filed an answer, and the state court has not entered any orders terminating or dismissing parties.

IV. OPERATIVE PLEADING

The operative pleading is the Complaint, filed on February 15, 2023, attached as **Exhibit 4** hereto.

V. SERVICE OF PROCESS

According to the documents filed or otherwise provided by Plaintiff's process server, the following defendants have been served:

- Pima Community College, on March 1, 2023

VI. TIMELINESS AND UNANIMITY OF REMOVAL

Removal is timely, as this Notice is being filed within 30 days of service of the Complaint upon the District. *See Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347–48, 119 S. Ct. 1322, 1325, 143 L. Ed. 2d 448 (1999). There is only one named Defendant (the remainder being fictitious entities), and so all defendants consent in the removal.

VII. STATUS OF PENDING MOTIONS

No motions are pending as of the filing of this Notice.

VIII. VERIFICATION OF FILING ALL PLEADINGS AND OTHER DOCUMENTS FROM STATE COURT FILINGS

A Notice of Filing Notice of Removal, a true and correct copy of which is included in **Exhibit 6**, has been filed in the Superior Court for the State of Arizona, in the County of Pima, Case No. C20230695, on behalf of Defendant Pima Community College.

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1 True and correct copies of all pleadings and other documents filed in the state
2 court proceeding have been filed herewith as described above.

3 DATED this 21st day of March, 2023.

4 JONES, SKELTON & HOCHULI, P.L.C.

5
6 By /s/ Ravi V. Patel
7 Georgia A. Staton
8 Ravi V. Patel
9 40 N. Central Avenue, Suite 2700
10 Phoenix, Arizona 85004
11 Attorneys for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March, 2023, I caused the foregoing document to be filed electronically with the Clerk of Court through the CM/ECF System for filing; and served on counsel of record via the Court's CM/ECF system.

/s/ Cecily N. Benson